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the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1238th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 19 August 1997, at 3 p.m.

Chairman: Mr. BANTON

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Seventh to tenth periodic reports of Burundi (CERD/C/295/Add.1;
HRI/CORE/1/Add.16)

1. At the invitation of the Chairman, Mr. Nsanze, Mr. Barahiraje, Mr. Makena and Mr. Karonkano (Burundi) took places at the Committee table.

2. Mr. NSANZE (Burundi) said that the high rank of the persons making up the delegation showed how much importance the Burundian Government attached to the implementation of the Convention.

3. Mr. BARAHIRAJE (Burundi) thanked the Committee for having postponed consideration of the report, which had initially been scheduled for 13 August, adding that the delegation had not been able to travel to Geneva on that date owing to the blockade currently imposed on Burundi by neighbouring countries. He said that Burundi had been plunged into a bloody crisis by the assassination, on 21 October 1993, of its first democratically elected president. A social and political upheaval had ensued, to which no solution could be found. Massacres, crime and genocide had been rampant in the country until the change which had occurred on 25 July 1996. Peace was gradually returning, although insecure areas still remained.

4. The authorities were resolutely engaged in defending the principles of law, as well as human rights. Thus under the terms of Decree-Law No. 01/001/96 of 13 September 1996, the transitional institutions had to ensure respect for human rights. Several instruments, including the Civil Code, the Penal Code, the Personal and Family Code and the Labour Code, enshrined the principle that all citizens were equal before the law. The Government of national unity which had been set up and which incorporated all shades of political opinion had established a Ministry responsible for human rights. A National Centre for Human Rights had also been set up. A decree-law relating to the establishment, organization and running of the Council of Notables (Abashingantahe) for National Unity and Reconciliation had been signed in order to provide the Government with guidance on all issues relating to national unity. Acknowledgement of political pluralism and the ratification of numerous international human rights instruments were clear indicators of the Government's determination to promote and protect human rights. The Government's efforts in that respect had been almost totally frustrated, however, by the blockade, with the result that the people's right to health care, education, instruction, paid employment and housing could no longer be guaranteed.

5. With regard to the implementation of articles 2 to 7 of the Convention, article 180 of the Penal Code penalized racial or ethnic discrimination and hatred. Article 5 of the Political Parties Act prohibited discrimination on ethnic grounds. The above-mentioned Decree-Law No. 01/001/96, governing the organization of the transitional institutional system, which incorporated virtually all the principles set forth in the suspended 1992 Constitution,

provided that all people had equal dignity, rights and duties, without distinction on grounds of sex, origin, ethnic status, religion or opinion, and that all Burundian citizens had the right to participate, directly or indirectly, in the running and management of the affairs of the State and were entitled to hold public office. The decree-law also guaranteed the right to property, to freedom of thought, conscience, religion and worship, freedom of peaceful assembly and association, the right to work and to just conditions of employment, the right to form and join trade unions, as well as the right to equal access to training, education and culture. In addition, Decree-Law No. 1/39 of 28 November 1992 regulating the press in Burundi recognized the right to freedom of opinion and expression.

6. The social and political upheavals of the last few years had caused the large-scale destruction of housing, entailing a considerable population displacement. Specialized institutions had therefore been set up in urban and rural areas to finance and organize the construction of housing. Hospitals, health centres and dispensaries had been partially or totally destroyed by armed gangs since the beginning of the civil war. As a result, a significant proportion of the population had been left without access to health care. The Government had recently redeployed doctors throughout Burundi in an attempt to provide treatment for as many persons as possible. Vaccination coverage, which had extended to 80 per cent of the country prior to the onset of the crisis, had fallen to no more than 40 per cent. The mortality rate had increased in Burundi as a result of malnutrition and the shortage of medicines. Infant mortality had risen to 132 per 1,000 by the beginning of 1994. Consequently, the right to health was no longer assured in Burundi.

7. The transitional Government planned to strengthen activities to educate people for peace, tolerance and respect for human rights, in the educational system as well as through awareness and training campaigns, conducted in particular by the Ministry of Youth, Sport and Culture. At the same time, a nationwide dialogue had been initiated at all levels with a view to gathering proposals for solutions to the country's basic problems. The Government also encouraged the establishment of independent leagues and associations for the protection of human rights.

8. The Government of Burundi reiterated its attachment to human rights, justice, peace and development. It was committed to taking further legislative, judicial and administrative measures to combat all forms of discrimination so as to ensure dignity and equality among its citizens.

9. Mr. WOLFRUM said that he was acting as rapporteur for Burundi in the absence of Mr. Chigovera, who had left on mission to the Democratic Republic of Congo, and that his own comments were essentially based on the notes concerning Burundi's report which Mr. Chigovera had prepared prior to his departure. According to the Committee's guidelines, the States parties were expected to give account in their reports not only of legislative and other measures which they had decided and which gave effect to the provisions of the Convention, but also of the impact of those measures. That second aspect, however, appeared to have been omitted in the report under consideration.

10. Burundi had been going through a period of transition when the Committee had considered the country's sixth periodic report in March 1991. The

Committee had then observed positive signs of the gradual elimination of discrimination, particularly in education. Since then, Burundi had been affected by dramatic events, including mass killings which had been primarily ethnically motivated, the massive exodus of refugees into neighbouring countries, an increase in the number of internally displaced persons and political instability. The gains of the early 1990s had been reversed and Burundi was very slowly recovering. Under its early warning and urgent procedures, the Committee had been closely following events in Burundi since the assassination of President Ndadaye in 1993. Numerous decisions had been made by the Committee on the situation. For instance, in its decision 1 (47) of 1995, the Committee had called for the creation of a new police force staffed by persons drawn proportionally from all ethnic groups, the creation of an army also composed of persons drawn proportionally from all ethnic groups, and the reorganization and retraining of the judiciary. Those recommendations still remained valid.

11. The report under consideration appeared to suggest that because the Constitution and other laws prohibited racial discrimination, the Government felt there was no need to take any further steps. He disagreed that the obligations under the Convention were met by simply adopting legislative measures. He was even more concerned, however, by the statement in paragraph 5 of the report, according to which Burundi had no races or ethnic groups in the strict sense of the word, as the Hutus, Tutsis and Twas did not possess distinctive territories, cultures, languages or religions. He considered on the contrary that the Twas had a culture and a way of life which was different from those of the other groups. Apart from that, in the definition of discrimination given in article 1, paragraph 1 of the Convention, no link was established between ethnicity and territory. It was true that the violence between the Hutus and the Tutsis had been exploited by politicians, but nevertheless ethnicity was a significant factor of conflict which had to be taken into account if Burundi's current crisis was to be overcome. It was important that a political system should be instituted providing for Hutus and Tutsis to cooperate and govern the country on an equal footing. While the objectives set out by the Government in paragraph 8 of its report were highly commendable, they could not be achieved unless the causes of the current predicament were recognized. Yet the Government's report provided no indication of the cause or the solution of current problems and even denied their existence.

12. If Decree Law No. 1/001/96 of 13 September 1996 was in conformity with the 1992 Constitution, as implied by the incorporation of virtually all the principles set forth in that Constitution (paragraph 14), why then had the latter been suspended and provisionally replaced by an instrument of dubious legitimacy? What was the composition of the Abashingantahe Council for national unity and reconciliation (paragraph 17) in relation to the various interest groups in Burundi, and what were its functions?

13. The assertion that there were no racial groups in Burundi (paragraphs 5 and 23) was inconsistent with the realities of violence committed by one ethnic group against another (reference should be made to the recommendation issued by the Human Rights Committee in 1994, contained in A/48/40, para. 80), or with the statement of the State party in its sixth periodic report, acknowledging that the events which had occurred previously had been the

result of incitement of peasants of one ethnic group to systematically kill peasants of another ethnic group (CERD/C/168/Add.1, paragraph 31). After considering that report at its fortieth session, the Committee had requested Burundi to report on the representation of the Hutus in the army and public service. That request had remained unanswered and should be reiterated, considering that there appeared to be no Hutu officers, that 90 per cent of the judiciary was of Tutsi origin (out of 228 judges only 13 were Hutus) and that 90 per cent of prisoners were Hutu. The Committee's recommendation concerning the repatriation of refugees and the gradual elimination of institutionalized discrimination, particularly in education, also remained valid.

14. He would like information concerning the steps taken or being taken by the State party to bring about proportional representation of the ethnic groups in the judiciary and to improve the living conditions of the Twa, who, according to reports, remained marginalized economically, socially and politically, without access either to education or to government services. The Committee might wonder why so little information was given in that respect in the report and why no special measures had been taken in favour of that ethnic group in accordance with article 2, paragraph 2, of the Convention.

15. It could not be said to be adequate compliance with article 3, under which States parties undertook to prevent and eradicate racial segregation and apartheid, to simply ratify the International Convention on the Elimination of All Forms of Racial Discrimination or other instruments, such as the International Convention against Apartheid in Sports (paragraph 24). It was wrong to assume that the death of apartheid in South Africa implied the disappearance of racial segregation in the world and that article 3 no longer had any purpose. The Government of Burundi should in that respect refer to general recommendation XIX (47), which gave an interpretation of article 3, and should include information in its next report on steps taken to eliminate and prevent racial segregation.

16. The Convention prohibited discrimination based on race, colour, ethnic or national origin. The provisions of the Political Parties Act prohibiting all forms of discrimination based on ethnic status (paragraph 26) were therefore too narrow to satisfy the requirements of the Convention, in particular article 4 (a). Paragraph 28, according to which the "Government believes that there are no deficiencies that need to be made good" with regard to the information previously supplied concerning the implementation of the provisions of article 4 (b), was therefore an inaccurate statement of the level of implementation of the Convention in Burundi. The report provided no information on prosecutions for violations of article 4, despite numerous reported acts of violence, killings and ethnic persecution following the 1993 coup d'état and the attempted coup of July 1995.

17. With regard to the implementation of article 5 of the Convention, the Government of Burundi referred to article 113 of a new decree-law regulating the transitional institutional system, which stipulated that "justice shall be handed down by the courts and tribunals throughout the territory of the Republic in the name of the people of Burundi" (paragraph 31). No indication was given, however, of the investigation and prosecution under that decree-law of the killings and disappearances reported by the United Nations Commission

of Inquiry in 1996. Statistics would be necessary in that respect. He would also invite comments on reports to the effect that the main impediment to investigations and prosecution was the involvement of the police and military authorities.

18. What steps was the Government taking to stem the tide of reported forced evictions or replacement of people, problems which were not even mentioned in the report? The creation of regroupment camps administered by the police, supposedly with the aim of guaranteeing the safety of inhabitants, raised a number of questions. Between 350,000 and 500,000 persons were affected and the camps should not be made permanent or target one specific ethnic group.

19. Why had no cases of racial discrimination ever been brought before the Burundian courts (paragraph 57), when numerous incidents of violence were alleged to have been committed on ethnic lines? Why had the Government not been willing to recognize the role played by ethnic differences, more particularly when the victims or offenders were said to belong to one or other ethnic group?

20. With regard to article 7, while it was appreciated that the political situation in Burundi remained volatile, particularly on account of the economic blockade, the Government should not be content with declarations of intent in the field of education and should demonstrate the efforts it was making in that respect.

21. The conclusion of the report was not consistent with assertions made earlier. What precisely was the Government's attitude towards its obligations under the Convention? Did it really believe that no further action was needed for ethnic groups and that the information supplied was complete (paragraphs 23 and 28)?

22. Lastly, he wanted to know what measures the Government had taken to ensure the safety of the 1,500 Zairians, 6 Somali and 1 Ethiopian identified in Burundi as refugees or displaced persons? Also, in November 1996, approximately 100,000 displaced persons had been reported living in the province of Cebitoke in poor circumstances worsened by the lack of security. What steps had been taken to help that vulnerable group?

23. Mr. VALENCIA RODRIGUEZ, noting the serious accusation in paragraph 7 of Burundi's report, according to which "the whole world has helplessly witnessed the gradual disintegration of the State and the entire social fabric", said that the Government's first priority should be to restore peace and security and to end impunity by opening inquiries and initiating legal proceedings against those suspected of crimes of all kinds.

24. The Government stated in its report that Burundi had no races or ethnic groups in the strict sense of the word. Ethnic groups undoubtedly existed, however, and were precisely the cause of armed conflicts. For a country as populated as Burundi, which had 8.6 million inhabitants, it would be useful to know the proportions of the different ethnic groups in the population.

25. Decree-Law No. 1/001/96 of 13 September 1996 appeared to provide an appropriate legal framework for implementing the provisions of the

International Convention on the Elimination of All Forms of Racial Discrimination. The information provided concerning articles 2 to 7 of the Convention, however, was very succinct and further details were required on the economic and social situation in the country, together with concrete examples of coexistence between the three major ethnic groups, namely the Hutu, Tutsi and Twa. Paragraph 34 mentioned "councils of distinguished persons". What were their functions, how were the members appointed and on whom did they depend? The Government of Burundi appeared to have ambitious plans for promoting respect for human rights and tolerance among all the components of the population. Those plans could not be implemented, however, without international cooperation.

26. Mr. DIACONU endorsed the queries raised by Mr. Wolfrum and Mr. Valencia Rodriguez. In his view, the Committee's basic difficulty was understanding the causes of violence and civil war among Burundi's different ethnic groups. The Government of Burundi should also try to tackle that difficulty before trying to resolve it by laying the basis for harmonious coexistence among all groups of the population.

27. The Government of Burundi denied the existence of different ethnic groups. Were the conflicts then to be interpreted as a power struggle between a majority group and a minority group? If it was to understand the situation, the Committee needed to know the demographic distribution of the three major ethnic groups in the country. The information supplied by Burundi in the report under consideration, however, was altogether inadequate (especially paragraphs 26, 28 and 29). The Government appeared to acknowledge political pluralism (paragraph 18), but it would be interesting to know the ethnic composition of the political parties, as well as the numbers of Tutsis and Hutus in the Government. The Committee also needed statistics concerning access to health, education and housing for each ethnic group and geographic region.

28. Mr. van ROVEN said it was worth recalling that as a treaty body, the Committee supervised the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and advised States parties on ways of fulfilling their obligations. It had two methods at its disposal: the consideration of periodic reports and the urgent procedure. Under the latter procedure, the Committee had adopted several resolutions in 1994, 1995 and 1996 to try to prevent further acts of violence in Burundi.

29. With regard to the report before the Committee, the main points had been covered by previous speakers. He would urge the delegation of Burundi, however, to provide precise details as well regarding the Government's "resolute efforts to put an end to impunity" (paragraph 9).

30. In several earlier decisions concerning Burundi, the Committee had called for security forces and public services to be placed under civilian control and to be representative of all ethnic groups, for measures to be taken to halt incitement to racial hatred by the radio and other mass media, for a national institution for the promotion of human rights to be established in order to promote peaceful relations between ethnic groups and for close cooperation to be initiated with the United Nations High Commissioner for Refugees and the United Nations High Commissioner for Human Rights, as well as

with the neighbouring countries, in order to provide refugees and displaced persons with the possibility of returning to their homes. Those were obviously long-term recommendations, but the Government of Burundi had apparently failed to take them into account. The Committee would like to know the views of the delegation on those different issues.

31. Mr. de GOUTTES was prepared to admit that the report under consideration might have been drafted in very difficult circumstances. In that regard, he could only urge the Government of Burundi to restore social and inter-ethnic cohesion, by referring in particular to the Committee's resolution 1 (49) and its 1994 conclusions. That having been said, the situation did not justify the fact that the report was couched in such general and theoretical terms and that it did not give any precise idea of the gravity of events.

32. While recognizing that the situation had somewhat improved and stabilized, he said that, according to reports of the United Nations and some non-governmental organizations, displacements and the forced regroupment of people in overcrowded camps afflicted by typhus, cholera and malnutrition were continuing, as well as disappearances and summary executions of refugees, destructions perpetrated as part of the anti-guerrilla campaign and the detention without charge or trial of a considerable number of Hutus, over 6,500 according to Amnesty International's 1997 report. Also according to the same sources, the Hutu were still little represented in the administration, the army, the police and the judiciary. It was regrettable that the United Nations was being prevented from inquiring into human rights since the Government of Burundi had requested the replacement of Mr. Pinheiro, Special Rapporteur on the human rights situation in Burundi, who had denounced the killing of civilians and the Government's "military logic". There were still 12 United Nations experts in Burundi, who were all too willing to help the country reform its judicial system.

33. Referring to the content of the report under consideration, it was hard to accept the assertion in paragraphs 5, 6, 21 and 23 that there were neither races nor ethnic groups in Burundi, whereas precisely the country was in the throes of conflicts between Tutsis and Hutus, which undoubtedly had political overtones but were also ethnically motivated. He welcomed the statement in paragraph 9 that the Government was making resolute efforts to put an end to impunity by mounting investigations and instituting the necessary legal proceedings, but he would have liked the Government to give some concrete examples of cases, and the ensuing outcome.

34. The Government should indicate what steps were being taken to improve the deplorable situation of refugees, as described in paragraph 51. The Government should also ask itself why, according to paragraph 57, no cases of racial discrimination had been brought before the Burundian courts. That could be due to the fact that the victims of discrimination mistrusted the police and judicial authorities, or to a certain inertia on the part of those authorities. Lastly, paragraph 62 mentioned a national centre for the promotion of human rights. He would like to have more details concerning the centre and the "independent leagues and associations" for the protection of

35. Mr. SHAHI, referring to some points already raised by other Committee members, also wanted to know what the Government intended to do to put an end to impunity for perpetrators of massive human rights violations, since the confidence without which there could be no lasting peace could not be restored unless they were punished. He also regretted that the recommendations made by the Committee at its August 1995 and August 1996 sessions, calling for proportional representation of all ethnic groups in the army, the judiciary and government bodies, had not been implemented. In its resolution 1 (49) on Burundi, the Committee had endorsed the proposal to dispatch a multinational peace force to the country in order to prevent a blood bath. That very sensible proposal, which had initially been supported by Mr. Boutros Boutros-Ghali, had unfortunately not been approved by the Security Council.

36. He also thought that it was worth identifying the exact nature of the current conflict, which was not properly speaking ethnic, but rather related to a political power struggle. At their meeting in Arusha, the heads of African States had advocated political reconciliation and dialogue between the heads of Tutsi and Hutu factions. President Buyoya was said to have begun peace talks with the rebel chiefs and to appear convinced that negotiations would lead to a satisfactory solution for both the Hutu and the Tutsi and that the country was once again embracing a style of democracy which took account of Burundi's cultural and political realities. However difficult it would be to implement, a political settlement was the only solution to be considered, since it seemed clear that the international community was not prepared to intervene if the situation worsened.

37. Every effort should be made, therefore, to help the parties involved. The leaders of States of the Great Lakes region had shown that they could take initiatives, even though tensions had arisen with President Buyoya when the Burundian Constitution had been suspended, and it was to be hoped that together with the other members of the international community they would help Mr. Buyoya conclude a power-sharing agreement between all the parties, including the armed and security forces.

38. Ms. SADIQ ALI said that there were only a few points she wished to raise at that stage. She wanted to know whether there was any chance of the blockade being lifted, considering President Buyoya's efforts to bring the situation back to normal. Which provisions of the decree-law mentioned in paragraph 39 determined how Burundian nationality was acquired and lost? How many refugees were still in Tanzania? How many had returned and how were they being resettled, rehoused, educated and fed? Could the Burundian delegation say how many legal proceedings had effectively been undertaken in order to put an end to impunity, indicating the outcome of the proceedings and the sentences passed? Lastly, she would like details concerning the role of the National Centre for the Promotion of Human Rights mentioned in paragraph 62 of the report.

39. Mr. ABOUL-NASSR did not think that the Government of Burundi could be accused of having ignored the Committee's comments and queries, since it was not in fact known whether or how it had received them. The Burundian

40. Unlike other members of the Committee, he took the view that the problem underlying the conflict between the Tutsi and the Hutu was not restricted to Burundi, but arose throughout the Great Lakes region. It was therefore unfair to expect Burundi to settle the problem on its own. Any solution which was not regional in scope was bound to be partial and temporary. Imposing sanctions on Burundi, which mainly affected children and innocent people, did not appear to be a satisfactory solution. He wondered whether the problem would not be better tackled through regional cooperation and asked what help Burundi intended to request from the Organization of African Unity and the United Nations.

41. He also thought that the United Nations should approach the protection of human rights differently. Rather than sending out special rapporteurs, who were rejected and created more problems than they solved, the Organization would be better advised to send mediators who were well acquainted with the countries and the region they were visiting. That was not the case with the United Nations envoy to Burundi, who had merely drawn up a critical report of the situation, without making any effort to understand the dimensions of the problem in neighbouring countries and without seeing that a solution which might be valid in Europe could not be applied in Africa.

42. With regard to Burundi in particular, it was worth looking into the reasons why it was so difficult to put an end to the killings. Was the Government considering cooperating with its neighbours, some of which supported the Tutsi and others the Hutu, which clearly showed the regional dimension of the problem, and had it effectively prosecuted those responsible?

43. With regard to the return to democracy announced by Mr. Buyoya, he was of the opinion that, while democracy entailed certain minimum standards, such as constitutional equality between groups, it could not appear in the same light everywhere and had to be adapted to the culture of individual countries.

44. Mr. AHMADU said that the situation in Burundi, afflicted as it was by killings and innumerable atrocities, gave Africans and the international community as a whole a feeling of complete helplessness. Everyone hoped that the Buyoya Government would succeed at least in restoring peace and security. How far had it succeeded?

45. Since Rwanda's and Burundi's accession to independence, the tensions and conflicts between those two countries of East Africa had ended up creating problems for the whole region. The blockade imposed on Burundi by the neighbouring States, who were alarmed at the situation, did not appear to have worked.

46. The difficulties regarding human rights in Burundi were due not so much to legislative shortcomings or loopholes as to the failure to implement domestic law and the rules of the Convention, although the Government in that respect could claim attenuating circumstances. He had the impression that the leaders and military chiefs who had either committed or allowed atrocities continued to enjoy impunity. What steps did the Government of Burundi intend to take to force them to answer for their acts before the law? From a

legislative point of view, it would be interesting to know whether the President was governing by decree or whether legislation was actually being passed by the National Assembly.

47. He thought that the action taken by the international community and the Organization of African Unity on behalf of Burundi and the region as a whole was most inadequate. Perhaps an international conference should be convened to discuss the situation in Africa. A further move might be for the United Nations system to increase the funds it allocated to humanitarian assistance, for instance by combining the resources of several specialized agencies.

48. Mr. GARVALOV said that Burundi should be given credit for having succeeded in preparing its periodic report and submitting it to the Committee, despite the extremely serious situation prevailing in the country. The fact that the report contained contradictions or inaccuracies was not so important if one considered that Burundi's problems were essentially political and should therefore be met with a political solution. Nevertheless, only education, in the broader sense of the term, by tackling the problem at its roots, could provide a way out. A very broad-ranging educational programme should be launched with a view to eradicating racial hatred and racial prejudice, failing which no measure or no political arrangement would be viable in the longer term. If the circle of violence was to be broken, mentalities would have to be changed, and that would necessarily take a long time.

49. He had read in paragraph 15 of the report that all shades of political opinion were represented in the Government of Burundi. He failed to see how that statement was compatible with the claim that Burundi had no ethnic political groups, considering that article 5 of the Political Parties Act prohibited all forms of discrimination based on ethnic status.

50. He noted that two of the guiding principles for the administration of justice in Burundi, namely strict enforcement of the principle of equality before the law regardless of the social rank of the litigant and respect for the rights of the defence (paragraph 33), appeared to be a matter of particular concern for the Burundians, whereas they might be expected to be taken for granted.

51. The CHAIRMAN invited the delegation of Burundi to provide replies at the following meeting to the many questions raised by members of the Committee.

The meeting rose at 5.55 p.m.